

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ADRIAN STEWART,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIVIL ACTION NO. 2:17-CV-200-WHA
	)	(wo)
LEON BOLLING, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**ORDER**

This cause is now before the court on a Motion for Certificate of Appealability (Doc. #23), which the court construes to contain a motion to proceed on appeal in forma pauperis.

To obtain a certificate of appealability the prisoner must make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).<sup>1</sup> Section 1915(a) of Title 28 provides that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." In making this determination as to good faith, the court must use an objective standard, such as whether the appeal is "frivolous," *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or "has no substantive merit," *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981) (per curiam).

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<sup>1</sup> "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong... When the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

For the reasons given in the Recommendation of the United States Magistrate Judge, and this court's Order adopting that Recommendation (Doc. #20), the court finds that the Petitioner's appeal is without a legal or factual basis and, accordingly, is frivolous and not taken in good faith.

Accordingly, it is ORDERED that Petitioner's motions for a certificate of appealability and to proceed on appeal in forma pauperis (Doc. #23) are DENIED.

DONE this 12th day of November, 2020.

/s/ W. Harold Albritton  
W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE